IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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F.A.O No. 5427 of 2006

Date of decision : December 12, 2006

United India Insurance Company Limited ... Appellant

Versus

Prem Lata and others ... Respondents

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Present: Mr. Ravinder Arora, Advocate
for the appellant.

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CORAM: HON'BLE MR.JUSTICE UMA NATH SINGH

HON'BLE MR. JUSTICE VINOD K. SHARMA

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UMA NATH SINGH, J (Oral)

This F.A.O arises out of an Award dated 11.09.2006 passed by learned Presiding Officer, Motor Accidents Claims Tribunal (hereinafter referred to as 'the Tribunal'), Kurukshetra, in M.A.C.T Case No.85 dated 12.05.2005 awarding a sum of Rs.4,82,400/- (Rupees Four Lacs eighty-two thousand and four hundred) with 7.5 per cent interest per annum from the date of institution of the application in a death case of Om Parkash, said to be 40 years old at the time of the accident.

It appears that on the date of accident, the deceased was employed as a Chowkidar in Hafed Godown at village Bhaini. The offending vehicle being a Tractor bearing registration no. HR-07-B-2792 while being driven rashly and negligently struck against him when it was entering into the main gate. He was

caught into between the main gate and the tractor and was rescued with great difficulty having suffered multiple serious injuries. In the process, the deceased was lodged in hospital for about 6 days and he died of injuries in the P.G.I, Chandigarh, on 23.3.2005. Admittedly, the application of the Insurance Company to contest the case on merits, was dismissed. Moreover, the Company has been granted recovery right. Despite this back-ground, the learned counsel for the appellant-Insurance Company made an endeavour to persuade us by arguing on merits which would not be permissible in the absence of a permission as such under Section 170 of the M.V.Act. Learned counsel for the Insurance Company has assailed the Award on the quantum of compensation being higher, and also for the breach of the conditions of policy. Needless to say that in terms of the ratio of the judgment of Hon'ble the Apex Court in the case of **National Insurance Company Limited** versus **Swaran Singh and others**, 2004 ACJ -1, even in the absence of a valid driving license of the driver of the offending vehicle, the Insurance Company would be liable towards the third party, and may be granted permission to recover the amount from the owner and the driver of the vehicle. In the instant case, in line with the said ratio, the Company has been granted recovery right because the driver has been found to be holding a fake driving license at the time of accident.

Thus, in view of the aforesaid discussion, and in terms of the ratio of the judgment of the Hon'ble Apex Court in the above mentioned case which do not support the plea of the Insurance Company, the appeal is dismissed **in limine.**

(UMA NATH SINGH)
JUDGE

(VINOD K. SHARMA)
JUDGE

December 12, 2006

RS